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AUG 19 2008**

In re Application of :  
Colin H. Self et al : DECISION ON PETITIONS  
Application No. 10/812,044 : UNDER 37 CFR 1.78(a)(3)  
Filed: March 29, 2004 : AND 37 CFR 1.55(c)  
Attorney Docket No. 602314-004 :

This is a decision on the renewed petition filed May 2, 2008, under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of priority to the prior-filed PCT application, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application.

The petitions are **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

The amendment and ADS submitted with the instant petition improperly placed the claim for benefit to foreign Application No. PCTGB9402359, filed October 26, 1994 to be included with the domestic priority which is not in compliance with 37 CFR 1.63(c)(2). Additionally, PCTGB9402359 filing date is referenced as October 26, 1994 in the domestic benefit information and as October 16, 1994 in the foreign priority information. Clarification is required.

Before the petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.55(c) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.55(c), in compliance with the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:                    Mail Stop PETITIONS  
                                  Commissioner for Patents  
                                  Post Office Box 1450  
                                  Alexandria, VA 22313-1450

By hand:                    Customer Service Window  
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                                  401 Dulany Street  
                                  Alexandria, VA 22314

By fax:                     (571) 273-8300  
                                  ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.



Karen Creasy  
Petitions Examiner  
Office of Petitions